

REMARKS

In the Office Action, the Examiner indicated that claims 1-27 are pending in the application and the Examiner rejected all claims.

Claim Rejections, 35 U.S.C. §103

On page 2 of the Office Action, the Examiner rejected claims 1-6 and 8-27 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application No. US 2005/0010494 to Mourad et al. ("Mourad") in view of U.S. Patent No. 7,107,225 to McClung, III ("McClung").

On page 4 of the Office Action, the Examiner rejected claim 7 under 35 U.S.C. §103(a) as being unpatentable over Mourad in view of McClung and further in view of U.S. Patent Application No. US 2002/0143655 to Elston et al. ("Elston")

The Present Invention

The present invention is a method, system and computer product for automatically monitoring multiple publicly-searchable, network-accessible databases used to maintain information relating to web-based commerce sites for acquisition parameters (e.g., prices, rental amounts, etc.) on one or more commodities for a predetermined period of time. To monitor the databases, a user utilizes an agent programmed with a search strategy. Essentially, this agent is a software based search engine that defines its search based upon user set criteria, in this case the acquisition parameters, for a predetermined time duration. Specifically, claim 1 recites: "identifying said one or more commodities using one or more searchable identification

parameters; defining a monitoring duration during which acquisition parameters for said one or more commodities will be monitored;” (claim 1, lines 3-6). Once programmed, the agent scans shop-bot sites and/or a set of other publicly searchable databases to see if an item meeting the user’s acquisition parameters is available. When a determination is made that the item can be purchased at or below a target price, the agent asynchronously notifies the user (e.g., through a pop-up dialog window or an email) of the details regarding where and how the item can be purchased. Claim 1 further recites “monitoring a plurality of publicly-searchable, network-accessible databases for acquisition parameters for said one or more commodities using said one or more searchable identification parameters; and outputting results of said monitoring step.” (claim 1, lines 7-10).

U.S. Patent Application No. US 2005/0010494 to Mourad et al.

U.S. Patent Application No. US 2005/0010494 to Mourad et al. (“Mourad”) teaches an internet based method for real time comparisons of prices of online retailers against a set reference price. The reference price is set by a user and is used to establish a meaningful basis for comparison, such as a wholesale price of an item or the lowest historical price of the item. By first building a single private database of information based upon participating retailers, a user can scan in a single location and quickly qualify and quantify the benefits of purchasing from a particular retailer. Once this single private database is constructed, the reference price is used to compare and analyze the prices stored in the database and the results of the analysis are returned to the user. The user can then use these results to see any trends

in pricing of an item and to locate a vendor with the lowest price. The Examiner acknowledges that Mourad does not teach defining a monitoring duration during which acquisition parameters are monitored as well as searching a plurality of publicly searchable databases.

U.S. Patent No. US 7,107,225 to McClung, III

U.S. Patent No. 7,107,225 to McClung, III ("McClung") teaches a method for guaranteeing a consumer a best price on an item purchased from a vendor. The method records the price a consumer pays for an item as well as information identifying the consumer. For a predetermined time period, the sales price of the item is monitored, noting any price lower than the price the consumer paid for the item. If a lower price is observed, the difference in price between the lower price and the price paid by the consumer is calculated and the difference is refunded to the consumer. The Examiner relies on McClung for an alleged teaching of searching a plurality of publicly searchable databases as well as an alleged teaching of monitoring acquisition parameters for a defined time duration.

U.S. Patent Application No. US 2002/0143655 to Elston et al.

U.S. Patent Application No. US 2002/0143655 to Elston et al. ("Elston") teaches a remote ordering system suited to mobile customers placing remote orders with any one of a group of affiliated merchants for pick up by the customer at a specific merchant location. The system includes a database which functions as a merchant information directory. This

directory includes information which characterizes order-processing features for each merchant. The information may include fulfillment capability, menus, prices, payment features, taxes, security protocols and system administration privileges specific to an individual merchant location. The system provides an interface to allow a user to pre-order goods from a merchant, pay for the goods automatically, and only physically visit the merchant to receive the actual goods ordered. The Examiner relies on Elston for an alleged teaching of notifying a user by sending an instant message.

The Examiner Has Not Established a *Prima Facie* Case of Obviousness

As set forth in the MPEP:

To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skilled in the art, to modify the reference or to combine reference teachings.

MPEP 2143

The present invention, as discussed above, provides an interface for a user to input acquisition parameters to be used in searching for online commodities. Once the acquisition parameters have been set, an agent searches a plurality of public databases of stored information relating to commodities available from numerous online merchants. This searching of multiple online databases is one feature which defines the present invention as non-obvious over the prior art. Specifically, claim 1 recites “monitoring a plurality of publicly-searchable, network-accessible databases”. Each additional independent claim (claims 10 and 19) also includes a

form of this limitation. This monitoring of multiple online databases is advantageous over the prior art as no system specific database needs to be created, since the agent has the capability to search any available public database.

Mourad discloses a system and method for online shopping where a single retailer database is *constructed*. This database contains the information relating to all retailers participating in the system. A user specifies a reference price for an item, and the database is searched. Results are returned to the user showing a comparison of the prices the item is available for from the participating retailers versus the reference price. However, an important and vital feature of the invention of Mourad is the construction and searching of this single database. Unlike the present invention, Mourad is limited to searching only a single, privately constructed database whereas the present invention specifically claims searching multiple public databases. Specifically, the Examiner acknowledges Mourad fails to teach monitoring a plurality of publicly searchable databases and looks to McClung to teach this limitation.

McClung teaches a method for guaranteeing a consumer receives the best price for an item purchase by monitoring the price of the item for a specific period of time and, should the price of the item be reduced, refund the difference between the price paid and the current price of the item to the consumer. McClung teaches monitoring the price of an item at all vendors having the item for sale to determine if the price is reduced. The Examiner is interpreting McClung teaching monitoring all vendors as suggesting a “plurality” feature. The Examiner applies this plurality feature to the disclosure of Mourad, saying it would have been obvious “to modify Mourad to include that publicly-searchable database includes a plurality of publicly searchable

databases, as suggested by McClung” (page 4 of the Office Action). Applicants respectfully disagree with the Examiner.

McClung is unconcerned with searching databases, in fact, McClung is completely silent on databases altogether. Nowhere does McClung mention how each of the multiple vendor prices are monitored, whether it is by monitoring a plurality of databases or simply monitoring the vendor’s web site for any price changes. It is improper to assume that the monitoring of vendors by McClung includes monitoring a plurality of publicly-searchable databases without any disclosure of databases. All that can be taken from McClung is that McClung monitors the prices of a plurality of vendors. However, McClung does not specify how this monitoring is done. Merely monitoring the prices of multiple vendors, though, is not any different from the system of Mourad. Mourad specifically monitors the prices of a plurality of vendors, however, Mourad requires the individual vendors submit their pricing information to be formatted and stored in a central, single database for searching. The addition of the teachings of McClung does not modify any feature of Mourad as Mourad already included monitoring multiple vendors. What both Mourad and McClung fail to disclose, though, is monitoring a plurality of databases. However, monitoring multiple public databases to find a user selected commodity using one or more user selected acquisition parameters is explicitly claimed herein.

As shown in the above arguments, neither Mourad nor McClung, whether considered alone or in combination, teach or reasonably suggest the presently claimed invention. Without such teaching or suggestion, it is improper to reject claims 1-6 and 8-27 under 35 U.S.C. 103

based upon Mourad in view of McClung. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 1-6 and 8-27.

On page 6 of the Office Action, the Examiner acknowledges that Mourad in view of McClung fails to teach or reasonably suggest sending an instant message to a user upon the occurrence of one or more acquisition parameters being met. The Examiner relies on Elston to teach this limitation. Elston is concerned with a remote ordering system for users utilizing mobile communication devices. This system, similar to that of Mourad, uses a single private database for storing merchant information. Elston fails to teach or suggest monitoring multiple public databases to find a user selected commodity using one or more user selected acquisition parameters. However, monitoring multiple public databases to find a user selected commodity using one or more user selected acquisition parameters is novel and non-obvious, and is explicitly claimed herein.

As shown in the above arguments, neither Mourad, McClung nor Elston, whether considered alone or in any combination, teach or reasonably suggest the presently claimed invention. Without such teaching or suggestion, it is improper to reject claim 7 under 35 U.S.C. 103 based upon Mourad in view of McClung and further in view of Elston. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of claim 7.

Conclusion

The present invention is not taught or suggested by the prior art. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims. An early Notice of Allowance is earnestly solicited.

The Commissioner is hereby authorized to charge any fees associated with this communication to Deposit Account No. 19-5425.

Respectfully submitted

September 20, 2007
Date

/John R. Brancolini/
John R. Brancolini
Registration No. 57,218

SYNNESTVEDT & LECHNER LLP
1101 Market Street
Suite 2600
Philadelphia, PA 19107

Telephone: (215) 923-4466
Facsimile: (215) 923-2189